

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BOBBY E. BROWN,

Plaintiff,

vs.

MARROQUIN, et al.,

Defendants.

**1:21-cv-00087-GSA-PC**

**ORDER FOR CLERK TO RANDOMLY  
ASSIGN A UNITED STATES DISTRICT  
JUDGE TO THIS CASE**

**AND**

**FINDINGS AND RECOMMENDATIONS,  
RECOMMENDING THAT THIS CASE  
PROCEED ONLY WITH PLAINTIFF'S  
EXCESSIVE FORCE CLAIMS AGAINST  
DEFENDANTS C/O MARROQUIN, C/O  
CAMPBELL, C/O CHAVEZ, AND C/O  
POMPA; AND ADA CLAIMS AGAINST  
DEFENDANTS C/O MARROQUIN AND  
SERGEANT ESPINOSA; THAT ALL  
OTHER CLAIMS AND DEFENDANTS BE  
DISMISSED; AND THAT PLAINTIFF'S  
MOTION FOR PRELIMINARY  
INJUNCTIVE RELIEF BE DENIED AS  
MOOT**

**OBJECTIONS, IF ANY, DUE WITHIN  
FOURTEEN DAYS**

**I. FINDINGS**

Bobby E. Brown ("Plaintiff") is a state prisoner proceeding *pro se* with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on January 21, 2021. (ECF No. 1.)

1 The Complaint names as defendants Correctional Officer (C/O) Otto Marroquin, C/O  
2 Dorius Campbell, C/O D. Chavez, C/O M. Pompa, Sergeant M. Espinosa, John Doe (Medical  
3 Personnel, Psy Tech), and Christian Pfeiffer (Warden, KVSP) (collectively, “Defendants”), and  
4 brings claims for use of excessive force, failure to intervene, violation of the ADA, minimizing  
5 Plaintiff’s injuries as minor, and false reports. Plaintiff also brings a motion for preliminary  
6 injunctive relief in the Complaint.

7 The court screened the Complaint and found that it states cognizable claims for use of  
8 excessive force against Defendants C/O Marroquin, C/O Campbell, C/O Chavez, and C/O  
9 Pompa; and for violation of the ADA against Defendants C/O Marroquin and Sergeant Espinosa.  
10 (ECF No. 9.) The court also found that Plaintiff’s motion for preliminary injunctive relief  
11 should be denied as moot. (*Id.*) On November 28, 2022, the court issued a screening order  
12 requiring Plaintiff to either (1) file a First Amended Complaint, or (2) notify the court that he is  
13 willing to proceed only with the claims found cognizable by the court. (*Id.*)

14 On December 14, 2022, Plaintiff notified the court that he is willing to proceed only with  
15 the claims found cognizable by the court. (ECF No. 10.)

## 16 **II. ORDER, RECOMMENDATIONS AND CONCLUSION**

17 Accordingly, **IT IS HEREBY ORDERED** that the Clerk randomly assign a United  
18 States District Judge to this case.

### 19 **AND**

20 Based on the foregoing, it is **HEREBY RECOMMENDED** that:

- 21 1. This action proceed only on Plaintiff’s cognizable claims for use of excessive  
22 force against Defendants C/O Marroquin, C/O Campbell, C/O Chavez, and C/O  
23 Pompa; and for violation of the ADA against Defendants C/O Marroquin and  
24 Sergeant Espinosa;
- 25 2. All remaining claims and defendants be dismissed from this action;
- 26 3. Plaintiff’s claims for failure to intervene, for false reports, and for minimizing  
27 Plaintiff’s injuries be dismissed from this action based on Plaintiff’s failure to  
28 state any claims upon which relief may be granted;

4. Defendants John Doe (Medical Personnel, Psy Tech) and Christian Pfeiffer (Warden, KVSP) be dismissed from this action based on Plaintiff's failure to state any claims against them upon which relief may be granted;

5. Plaintiff's motion for preliminary injunctive relief be denied as moot; and

6. This case be referred back to the Magistrate Judge for further proceedings, including initiation of service of process.

These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen (14) days after the date of service of these Findings and Recommendations, Plaintiff may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: December 15, 2022

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE